IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH

S.B. CRIMINAL MISC. PETITION NO.280/01

Gajraj Singh **Versus** State & Anr.

DATE OF ORDER :: 20/08/2007

HON'BLE MR. JUSTICE AJAY RASTOGI

Mr. Sriram Yadav, for petitioner
Mr. Arun Sharma, P.P.
Mr. R.N. Sharma, for respondent

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Instant petition is directed against the order dated 2nd December, 1999 whereby learned trial Judge took cognizance against accused-petitioner u/s.3 of SC/ST Act – against which he preferred revision petition, but the same was dismissed in absence of his counsel vide order impugned dated 13th December, 2000.

Counsel for petitioner submits that he has throughout pursued his case, but despite reasonable justification shown, revision petition was dismissed in the absence of his counsel, which has caused great prejudice to him.

Counsel for respondents and so also learned Public Prosecutor submit that sufficient reasons have been assigned which has come on record for taking cognizance against accused-petitioner and the Revisional Court has considered on merits and during investigation, sufficient material has come on record for taking cognizance against

accused-petitioner, even if, his counsel could not appear on that day, it cannot be said that prejudice has been caused to him. The apex court in **Ram Abhilakh Vs. State of UP [2007 Cr.L.R.(SC) 286]** has considered almost identical matter where counsel could not appear and justification was shown by him for his non-appearance.

In view of judgment of apex court [supra], this court is also of the opinion that denial of opportunity to petitioner in absence of his pleader, certainly has caused prejudice to him and accordingly, order of Court of Revision dated 13th December, 2000 is not legally sustainable.

Consequently, the misc. petition stands allowed and the order dated 13/12/2000 passed in Criminal Revision Petition No.29/2000 is hereby set aside. Parties are directed to appear before the Court of Revision on 24th September, 2007 and it is expected from learned Revisional Court to decide the same after hearing the parties expeditiously, in accordance with law.

[AJAY RASTOGI],J.

FRBOHRA,JR.P.A.